

OCA 87-3864  
4 September 1987

MEMORANDUM FOR: Deputy Director for Administration  
Deputy Director for Science and Technology  
Comptroller  
Director of Security  
Director of Personnel

FROM:

Deputy Director for Legislation, OCA

SUBJECT: State Department Authorization Bills - Current Status

1. After the Congress returns from its summer recess on 9 September, 1987, it is possible that Senate floor action may be scheduled on S. 1394, the Senate version of the State Department authorization bill. The House version of this bill, H.R. 1777, passed the House in June and was sent to the Senate. If and when the Senate takes up the bill, there will likely be some amendments on the Senate floor but the bill will ultimately pass. Usual practice is then for the Senate to amend the House bill to reflect the Senate-passed version and request a conference with the House on the result. In the past, the House version of this legislation has contained many more provisions than the Senate version. Usually, the only provisions which survive conference are those found, in some form or another, in both bills. That is likely to be the case again this year.

2. Besides State budgetary issues, one of the major issues in this legislation centers around the Moscow Embassy espionage incident and the Soviet site at Mount Alto. Both bills contain somewhat different "packages" of provisions representing the Congressional response to these. These provisions are listed here briefly for your information. The Agency's equities in these provisions, however, are being handled separately.

After these are listed and discussed other provisions of interest to the Agency. While these apply to State, they are of interest to the Agency because of a variety of reasons: State reporting requirements which the Agency might be required to support; new restrictions on State employees and new requirements for United States personnel serving abroad.

#### Moscow Embassy/Mt. Alto Provisions

3. The following sections in the Senate bill are at the core of the Senate response to the Moscow Embassy and Mount Alto matters: Section 134 (suspension of Mt. Alto occupancy) and Section 135 (Full Report on Moscow Embassy - Report on Mt. Alto - Accountability Review Board Amendment).

4. There are many more sections in the House bill which can be viewed as the House's reaction to these. At the center are the provisions dealing directly with Mt. Alto and the Moscow Embassy but they also include other, less-directly related provisions: Section 146 (restrictions on U.S. travel by Bloc mission and Bloc UN employees); Section 161 (suspension of State SES performance awards); 162 (report on SES awards for those involved with Moscow Embassy); 184 (limits on number of Soviet, Byelorussian, & Ukrainian personnel at UN); Section 185 (Withdrawal From U.S.-Soviet Embassy Agreement - Prohibition on Mt. Alto Site Use); Section 186 (Recovery of Espionage Damages); Section 187 (U.S.-Soviet Reciprocity in Diplomatic Access to Goods & Services); Section 191 (jurisdiction of accountability review boards); Section 197 (increased funding for diplomatic security); Section 198 (periodic security surveys of U.S. diplomatic/consular facilities); Section 199 (restrictions on Soviet acquisition of U.S. real property); Section 199F (rotation of Marine guards); and, Section 199G (limiting Soviet role in UN personnel reduction). In addition, some of the provisions listed below under "Other Provisions" bear some relation to the Moscow Embassy incident.

5. Although many of the House provisions are likely to be rejected ultimately by the conferees, it is not clear at this point which ones these will be. It is likely, however, that there will be some agreement as to the "core" provisions exemplified by Sections 134 and 135 of the Senate bill.

#### Other Provisions

6. Foreign Service Former Spouses Benefits. Section 117 of the Senate bill and Section 152 of the House bill contain very similar provisions to authorize the award of certain survivor, annuity and health benefits for former spouses of Foreign Service employees.

7. Diplomatic Security Officer. Section 127 of the House bill would amend the Diplomatic Security Act (22 U.S.C. §4821) so as to place into permanent law the enumerated duties of a diplomatic security officer, including his responsibility to "be responsible for the supervision of all diplomatic security personnel of (the) mission."

8. Allocation of Mission Costs Report. Section 129 of the House bill requires the Secretary of State to review the procedures for allocating costs among agencies represented at United States missions abroad and within three months after passage of the bill report on the results to the foreign affairs committees.

9. Annual Country Counterterrorism Reports. Section 130 of the House bill requires the Ambassador-at-Large for Counterterrorism to report annually on a country-by-country basis concerning the counterterrorism efforts of each country.

10. United States Embassy in Hungary. Section 142 contains Congressional findings that the Embassy in Hungary may be headed for problems similar to those suffered at the Moscow Embassy and a sense-of-the-Congress statement that in negotiations for and building of new facilities, certain safeguards should be in place. The findings include statements that the personnel are under pressure from the Hungarian intelligence service and that the Army Corps of Engineers and the Navy Construction Battalion are uniquely qualified to perform construction in the Eastern Bloc.

11. Drug Testing For State Employees Having Access to Classified Information. Section 145 of the House bill contains a requirement for the Secretary of State to establish within one year of the bill's passage a drug-testing program for State employees and contractors having access to classified information.

12. Report on Progress Toward a World Terrorism Summit. Section 173 of the House bill requires the President to report to the Congress on the progress he has made towards obtaining the convocation of a world summit on terrorism.

13. Elimination of Birthplace From Passports. Section 174 of the House bill repeats a sense-of-the-Congress statement from last year's omnibus diplomatic security and anti-terrorism legislation that the President initiate negotiations on the removal of birthplaces from passports in order to protect foreign-born American citizens. You will recall that there were objections to this idea voiced within the Executive Branch, most especially from the law enforcement and intelligence communities.

14. Counterintelligence Polygraph For Certain State Employees. Section 189 of the House bill requires the Secretary of State to implement a program of counterintelligence polygraphs for members of State's Diplomatic Security Service. The scope of the program is limited, however, to the scope authorized for Department of Defense employees by the most recently effective DoD authorization bill: a limited "counterintelligence" polygraph and not the fuller "lifestyle" polygraph.

15. Personnel Security Program for Security Personnel In Bloc Facilities. Section 190 of the House bill requires the Secretary of State to implement a program of personnel security for State personnel assigned to posts in "high intelligence threat" countries who are "responsible for security at those posts" and for individuals "performing guard functions at those posts." "High intelligence threat countries" are defined as communist countries (as defined in the Foreign Assistance Act) as well as any other country so designated by the Secretaries of State or Defense, the Director of the Federal Bureau of Investigation or the Director of Central Intelligence.

16. Prohibition of Embassy Employment of Bloc Nationals. Section 192 of the House bill forbids the employment, after 30 September 1989, of foreign national employees within United States mission compounds in Communist Bloc countries. The bar specifically excludes those not having access to sensitive areas in the compound.

17. Termination of Retirement Benefits for Foreign National Employees Engaging in Hostile Intelligence Activities. Section 193 of the House bill provides for the termination of retirement benefits for present or former foreign national employees who the Secretary of State believes engaged in hostile intelligence activities. The section explicitly provides for a waiver by the Secretary of State, provided he notifies the "appropriate" Congressional committees in advance.

18. Report on Advisability of Foreign National Employees. Section 194 of the House bill directs the Secretary of State to report to Congress within six months on the advisability of foreign national employees in general.

19. Disposition of Personnel Property Abroad. The Office of Personnel's attention is particularly directed toward Section 1001 of the House bill. This section amends the State Department Basic Authorities Act of 1956 (22 U.S.C. 2269 et seq) so as to place a series of restrictions on the disposition of personal property acquired abroad by United States persons serving in a diplomatic status. Essentially, the provision

forbids any such person (or members of their family), without the approval of the chief of mission, from disposing of personal property within a foreign country which was "imported into or purchased within that country and which, by virtue of the official status of the employee, was exempt from import limitation, customs duties or taxes which would otherwise apply."

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20. Prohibition on Exclusion of Aliens Seeking to Speak. Section 504 of the Senate bill forbids the exclusion of an alien from admission to the United States solely because of any past or current political beliefs or associations. The section, however, retains the right of the Executive branch to deny admission to any alien for "foreign policy and national security" reasons other than these. It further provides that nothing in the provision shall affect the standing of an individual to sue on the grounds that he suffered harm due to any exclusion.

21. This provision appears to represent a compromise between the Executive and Legislative Branches on the question of when controversial foreigners who wish to come to the United States to make political speeches may be excluded. Essentially it gives to the Legislative Branch the provision that such persons cannot be excluded solely because of what they would say. On the other hand, it gives to the Executive Branch the provision that such persons can be otherwise excluded on "foreign policy" or "national security" grounds and leaves in its current status quo the question of whether United States persons can sue in United States courts on the grounds that their First Amendment rights are harmed by the exclusion of such persons. It is not clear whether or not this provision will survive a conference.

22. United States Afghanistan Policy. Section 509 of the Senate bill contains a series of hortatory statements about U.S.-Afghanistan policy. Subsection (c) therefore is a Congressional declaration of United States policy that the U.S. should provide such assistance to the Afghan people as will most effectively help them resist Soviet invaders. There is also a statement that the Executive should ensure that assistance is not stolen or diverted.

23. We will continue to monitor this legislation and keep you informed. Should you have any questions, please contact this office.

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